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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,142	04/20/2001	Raymond E. Suorsa	033048-059	9523

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BUCHANAN, INGERSOLL & ROONEY PC  
POST OFFICE BOX 1404  
ALEXANDRIA, VA 22313-1404

EXAMINER
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LESNIEWSKI, VICTOR D

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/838,142	SUORSA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Victor Lesniewski	2152	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. The amendment filed 5/19/2006 has been placed of record in the file.
2. Claims 22-31 have been canceled.
3. Claims 32-38 have been added.
4. Claims 32-38 are now pending.
5. The applicant's arguments with respect to claims 32-38 have been considered but are moot in view of the following new grounds of rejection.

### ***Continued Examination Under 37 CFR 1.114***

6. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous office action has been withdrawn pursuant to 37 CFR 1.114. The applicant's submission filed on 5/19/2005 has been entered.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language:

8. Claims 32, 33, and 36-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (U.S. Patent Number 6,816,964), hereinafter referred to as Suzuki.

9. Suzuki has disclosed:

- <Claim 32>

A method for executing commands in a system having a database (figure 2, item 105), a plurality of devices remote from the database (figure 1, items 200) and a gateway (figure 2, item 107) that provides a communications interface between said remote devices and said database, comprising the following steps: storing a queue in said database containing a sequence of commands to be executed (figure 1, item 11); retrieving, at said gateway, a command from the queue and transmitting the retrieved command from the gateway to an agent running on at least one of said remote devices, for execution on said one device (column 8, lines 19-24); at said gateway, receiving a message from the agent reporting the results of the execution of the command (column 8, lines 25-28); retrieving, at said gateway, the next command from the queue in response to receipt of said message, and transmitting said retrieved next command to the agent for execution (column 8, lines 28-37); in response to receiving a message at the gateway from the agent reporting the results of the execution of at least one command, transmitting a command from the gateway to the agent on the remote device to initiate a reboot process (column 8, lines 38-40); placing the queue in a reboot status in response to the initiation of the reboot process (column 8, lines 40-45); receiving at the gateway a message from the agent indicating the completion of the reboot process at the remote device (column 8, lines 46-49); removing the queue from reboot status in response to said message, and checking at the gateway

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whether any commands remain in the queue that have not yet been completed (column 8, lines 49-53); and resuming the step of retrieving commands in the queue and transmitting them to the agent if uncompleted commands are determined to be present in the queue (column 8, lines 49-53):

- <Claim 33>

The method of claim 32, wherein said queue is placed in said reboot status in response to receipt at said gateway of a message from the agent on the remote device indicating that the reboot process is in progress (column 8, lines 40-45).

- <Claim 36>

The method of claim 32, further including the step of updating the status of the queue to indicate the command that has been most recently transmitted to the agent for execution (column 10, lines 28-34).

- <Claim 37>

The method of claim 32, wherein said sequence of commands cause the agent to install and configure software on the remote device (column 8, lines 31-37).

- <Claim 38>

The method of claim 32, wherein said message indicating the completion of the reboot process at the remote device includes a report of the configuration of the remote device (column 9, lines 8-12).

Since all the limitations of the invention as set forth in claims 32, 33, and 36-38 were disclosed by Suzuki, claims 32, 33, and 36-38 are rejected.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki, as applied above, in view of Official Notice.

12. The combination discloses:

- <Claim 34>

The method of claim 33, wherein said agent opens a new communication session with said gateway to transmit said message (Official Notice).

The ability to begin a new communication session between a client and a server was well known in the art at the time of the applicant's invention, especially in systems attempting to securely transmit a message from one side to the other. Therefore, Official Notice is taken.

- <Claim 35>

The method of claim 34, wherein said new communication session comprises a secure socket (Official Notice).

The use of a secure socket for communications sessions and the use of SSL was well known in the art at the time of the applicant's invention. Therefore, Official Notice is taken.

Since the combination of Suzuki and Official Notice discloses all of the above limitations, claims 34 and 35 are rejected.

### *Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

- O'Brien et al. (U.S. Patent Number 6,986,133) disclosed a system for upgrading network devices that are enabled with installed agents in order to identify and communicate with a server running the upgrade program.
- Newton's Telecom Dictionary disclosed information on SSL or the Secure Sockets Layer.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987.

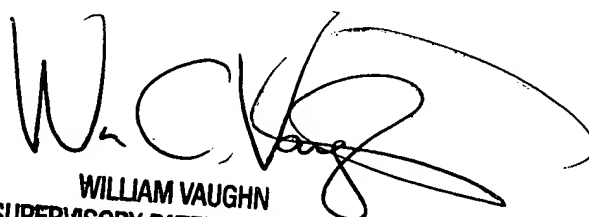
The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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